



DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment: National Medical Support Notice – Part B, etc.

AGENCY: Employee Benefits Security Administration, Department of Labor

ACTION: Notice

Overview Information:

Proposed Extension of Information Collection Requests Submitted for Public Comment: National Medical Support Notice – Part B; Defined Benefit Plan Annual Funding Notice; Prohibited Transaction Class Exemptions for Multiple Employer Plans and Multiple Employer Apprenticeship Plans, PTE 76-1, PTE 77-10, PTE 78-6; Request to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction; Notice of Special Enrollment; Notice of Pre-Existing Condition Exclusion; Establishing Prior Creditable Coverage

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security

Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the ADDRESSES section of this notice. ICRs also are available at [reginfo.gov](http://www.reginfo.gov) (<http://www.reginfo.gov/public/do/PRAMain>).

DATES: Written comments must be submitted to the office shown in the Addresses section on or before [INSERT DATE THAT IS 60 DAYS FOLLOWING THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Washington, DC 20210, (202) 693-8410, FAX (202) 693-4745 (these are not toll-free numbers).

I. SUPPLEMENTARY INFORMATION:

This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transactions described below. With the exception of the National Medical Support Notice – Part B, the Department is not proposing any changes to the existing ICRs at this time. The minor changes the Department is proposing for the National Medical Support Notice – Part B are discussed under the Description of that ICR, below. An agency may not conduct or sponsor, and a person is not required to respond to, an

information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor

Title: National Medical Support Notice – Part B

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0113

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Respondents: 433,000

Responses: 10,754,484

Estimated Total Burden Hours: 896,207

Estimated Total Burden Cost (Operating and Maintenance): \$5,807,421

Description: Section 609(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), requires each group health plan, as defined in ERISA section 607(1), to provide benefits in accordance with the applicable requirements of any “qualified medical child support order” (QMCSO). A QMCSO is, generally, an order issued by a state court or other competent state authority that requires a group health plan to provide group health coverage to a child or children of an employee eligible for coverage under the plan. In accordance with Congressional directives contained in the Child Support Performance and Incentive Act of 1998 (CSPIA), EBSA and the Federal Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS) cooperated in the development of regulations to create a National

Medical Support Notice (NMSN or Notice). The Notice simplifies the issuance and processing of qualified medical child support orders issued by state child support enforcement agencies, provides for standardized communication between state agencies, employers, and plan administrators, and creates a uniform and streamlined process for enforcement of medical child support obligations ordered by state child support enforcement agencies. The NMSN comprises two parts: Part A was promulgated by HHS and pertains to state child support enforcement agencies and employers; Part B was promulgated by the Department and pertains to plan administrators pursuant to ERISA. This solicitation of public comment relates only to Part B of the NMSN, which was promulgated by the Department. In connection with promulgation of Part B of the NMSN, the Department submitted an ICR to the Office of Management and Budget (OMB) for review, and OMB approved the information collections contained in Part B under OMB control number 1210-0113. OMB's approval of this ICR is scheduled to expire on October 31, 2012. HHS and DOL plan to revise the NMSN Parts A and B by October 2012, with minor changes. The revision will synchronize the expiration dates and make conforming changes to page 1 of the NMSN Part B to match the changes made to Part A by HHS in 2011.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Defined Benefit Plan Annual Funding Notice

Type of Review: Extension of a currently approved information collection

OMB Number: 1210-0126

Affected Public: Individuals or households; business or other for-profit institutions; not-for-profit institutions.

Respondents: 30,458

Responses: 49,171,095

Estimated Total Burden Hours: 1,093,173

Estimated Total Burden Cost (Operating and Maintenance): \$21,630,572

Description: Section 101(f) of the Employee Retirement Income Security Act of 1974 (ERISA) sets forth requirements applicable to furnishing annual funding notices. Before the enactment of the Pension Protection Act of 2006 (PPA), section 101(f) applied only to multiemployer defined benefit plans. The Department issued a final implementing regulation under this provision on January 11, 2006 (71 FR 1904), which is codified at 29 CFR 2520.101-4.

Section 501(a) of the PPA amended section 101(f) of ERISA and made significant changes to the annual funding notice requirements. These amendments require administrators of all defined benefit plans that are subject to title IV of ERISA, not only multiemployer plans, to provide an annual funding notice to the Pension Benefit Guaranty Corporation (PBGC), to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan. An annual funding notice must include, among other things, the plan's funding percentage, a statement of the value of the plan's assets and liabilities and a description of how the

plan's assets are invested as of specific dates, and a description of the benefits under the plan that are eligible to be guaranteed by the PBGC.

On February 10, 2009, the Department issued Field Assistance Bulletin (FAB) 2009-1 to provide interim guidance under section 101(f) of ERISA in order to assist plan administrators in discharging their obligations under the new annual funding notice requirements, including model notices plan administrators may use to satisfy the annual funding notice content requirements. The FAB provides that pending further guidance, the Department will, as a matter of enforcement policy, treat a plan administrator as satisfying the requirements of section 101(f), if the administrator complies with the guidance contained in the FAB and has acted in accordance with a good faith, reasonable interpretation of those requirements with respect to matters not specifically addressed in the FAB. The ICR, as revised by the FAB, expires on October 31, 2012. The Department issued proposed annual funding notice regulations on November 18, 2010 (75 FR 70625). Much of the guidance in FAB 2009-01 has been incorporated into the proposed regulations. The guidance contained in the FAB remains in effect until the Department adopts final regulations under section 101(f) of ERISA (or if the Department were to publish any other guidance under section 101(f) other than final regulations).

Agency: Employee Benefits Security Administration, Department of Labor

Title: Prohibited Transaction Class Exemptions for Multiple Employer Plans and Multiple Employer Apprenticeship Plans, PTE 76-1, PTE 77-10, PTE 78-6

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0058

Affected Public: Business or other for-profit; Not-for-profit institutions

Respondents: 4,230

Responses: 4,230

Estimated Total Burden Hours: 1,052

Estimated Total Burden Cost (Operating and Maintenance): \$0

Description: This ICR covers information collections contained in three related prohibited transaction class exemptions: PTE 76-1, PTE 77-10, and PTE 78-6. All three of these exemptions cover transactions that were recognized by the Department as being well-established, reasonable and customary transactions in which collectively bargained multiple employer plans (principally, multiemployer plans, but also including other collectively bargained multiple employer plans) frequently engage in order to carry out their purposes.

PTE 76-1 provides relief, under specified conditions, for three types of transactions: (1) Part A of PTE 76-1 permits collectively bargained multiple employer plans to take several types of actions regarding delinquent or uncollectible employer contributions; (2) Part B of PTE 76-1 permits collectively bargained multiple employer plans, under specified conditions, to make construction loans to participating employers; and (3) Part C of PTE 76-1 permits collectively bargained multiple employer plans to share office space and administrative services, and the costs associated with such office space and services, with parties in interest. PTE 77-10 complements Part C of PTE 76-1 by providing relief from the prohibitions of subsection 406(b)(2) of ERISA with respect to

collectively bargained multiple employer plans sharing office space and administrative services with parties in interest if specific conditions are met. PTE 78-6 provides an exemption to collectively bargained multiple employer apprenticeship plans for the purchase or leasing of personal property from a contributing employer (or its wholly owned subsidiary) and for the leasing of real property (other than office space within the contemplation of section 408(b)(2) of ERISA) from a contributing employer (or its wholly owned subsidiary) or an employee organization any of whose members' work results in contributions being made to the plan.

Each of these PTEs requires, as part of its conditions, either written agreements, recordkeeping, or both. The Department has combined the information collection provisions of the three PTEs into one information collection request (ICR) because it believes that the public benefits from having the opportunity to collectively review these closely related exemptions and their similar information collections. The Department previously submitted an ICR to the Office of Management and Budget (OMB) for approval of the information collections in PTEs 76-1, 77-10, and 78-6 and received OMB approval under the OMB Control No. 1210-0058. The current approval is scheduled to expire on November 30, 2012.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Request to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0135

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 15,400

Responses: 15,400

Estimated Total Burden Hours: 14,350

Estimated Total Burden Cost (Operating and Maintenance): \$8,000

Description: The continuation coverage provisions of section 601 through 608 of ERISA (and parallel provisions of the Internal Revenue Code (Code)) generally require group health plans to offer qualified beneficiaries' the opportunity to elect continuation coverage following certain events that would otherwise result in the loss of coverage. Continuation coverage is a temporary extension of the qualified beneficiary's previous group health coverage. The right to elect continuation coverage allows individuals to maintain group health coverage under adverse circumstances and to bridge gaps in health coverage that otherwise could limit their access to health care.

COBRA provides the Secretary of Labor (the Secretary) with authority under section 608 of ERISA to carry out the continuation coverage provisions. The Conference Report that accompanied COBRA divided interpretive authority over the COBRA provisions between the Secretary and the Secretary of the Treasury (the Treasury) by providing that the Secretary has the authority to issue regulations implementing the notice and disclosure requirements of COBRA, while the Treasury is authorized to issue regulations defining the required continuation coverage.

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA) of 2009 (Pub. L. 111–5). Section 3001(a)(5) of ARRA provides that if individuals request treatment as an assistance eligible individual and are denied such treatment because of their ineligibility for COBRA continuation coverage, the Secretary of Labor must provide for expedited review of the denial upon application to the Secretary in the form and manner the Secretary provides. The Secretary of Labor is required to act in consultation with the Secretary of the Treasury and must make a determination within 15 business days after receipt of an individual’s application for review.

The Application is the form that will be used by individuals to file their expedited review appeals with EBSA. All of the information requested on the Application must be completed, and an Application may be denied if sufficient information is not provided. In certain situations, EBSA will have to contact plan administrators for additional information regarding an applicant’s appeal of a denial of premium reduction. The Letter will be used for this purpose in cases where the Department has otherwise been unable to contact a plan administrator.

On November 9, 2009, the Office of Management and Budget (OMB) approved the Application and the Letter under OMB Control Number 1210–0135. The approval is scheduled to expire on November 30, 2012.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Notice of Special Enrollment.

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0101

Affected Public: Business or other for-profit; Not-for-profit institutions.

Respondents: 2,757,800

Responses: 10,847,611

Estimated Total Burden Hours: 0

Estimated Total Burden Cost (Operating and Maintenance): \$94,917

Description: Subsection (c) of 29 CFR 2590.701–6 requires group health plans to provide a notice describing the plan’s special enrollment rules to each employee who is offered an initial opportunity to enroll in the group health plan. The special enrollment rules described in the notice of special enrollment generally provide enrollment rights to employees and their dependents in specified circumstances occurring after the employee or dependent initially declines to enroll in the plan. EBSA previously submitted an ICR concerning the notice of special enrollment to the Office of Management and Budget (OMB) for review under the PRA and received approval under OMB Control No. 1210–0101. The ICR approval is currently scheduled to expire on December 31, 2012.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Notice of Pre-Existing Condition Exclusion

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0102

Affected Public: Business or other for-profit; Not-for-profit institutions.

Respondents: 827,330

Responses: 4,683,541

Estimated Total Burden Hours: 6,661

Estimated Total Burden Cost (Operating and Maintenance): \$1,319,664

Description: Regulation section 2590.701–3 requires group health plans imposing a pre-existing condition exclusion, and health insurance issuers offering group health insurance subject to a preexisting condition exclusion, to provide all participants under the plan a written general notice of the pre-existing condition and also to provide any affected individual a specific written notice describing the length of preexisting condition exclusion applicable to that individual under the plan after the plan or issuer has made a determination, for that individual, of creditable coverage. EBSA previously submitted an ICR with respect to these pre-existing condition exclusion notices to the Office of Management and Budget (OMB) for review under the PRA and received approval under OMB Control No. 1210–0102. The ICR approval is currently scheduled to expire on December 31, 2012.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Establishing Prior Creditable Coverage

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0103

Affected Public: Business or other for-profit; Not-for-profit institutions.

Respondents: 2,757,768

Responses: 19,593,756

Estimated Total Burden Hours: 88,066

Estimated Total Burden Cost (Operating and Maintenance): \$13,830,615

Description: Subsection (a) of 29 CFR 2590.701–5 requires a group health plan and each health insurance issuer offering group health insurance coverage under a group health plan to furnish certificates of creditable coverage to specified individuals under specified circumstances. EBSA previously submitted an ICR concerning the requirement to provide certificates of creditable coverage to the Office of Management and Budget (OMB) for review under the PRA and received approval under OMB Control No. 1210–0103. The ICR approval is currently scheduled to expire on December 31, 2012.

II. Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or

other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICRs for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: June 18, 2012

Joseph S. Piacentini
Director, Office of Policy and Research
Employee Benefits Security Administration

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